



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/663,647

09/17/2003

Jindrich Houzvicka

H0610.0351/P351

3795

24998 7590 11/10/2008

DICKSTEIN SHAPIRO LLP  
1825 EYE STREET NW  
Washington, DC 20006-5403

EXAMINER

BOYER, RANDY

ART UNIT

PAPER NUMBER

1797

MAIL DATE

DELIVERY MODE

11/10/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<p align="center"><b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b></p>	<p><b>Application No.</b> 10/663,647</p>	<p><b>Applicant(s)</b> HOUZVICKA ET AL.</p>	
	<p><b>Examiner</b> RANDY BOYER</p>	<p><b>Art Unit</b> 1797</p>	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 02 October 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: none.
- Claim(s) objected to: none.
- Claim(s) rejected: 1-5.
- Claim(s) withdrawn from consideration: none.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_
13. ☐ Other: \_\_\_\_\_.

/Glenn A Caldarola/  
Acting SPE of Art Unit 1797

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant's arguments filed 2 October 2008 are not persuasive to overcome the previous rejections of claims 1-5 made under 35 U.S.C. 103(a). Consequently, the previous rejections of claims 1-5 would be maintained on the same grounds and for the same reasoning set forth by Examiner in the Office Action mailed 31 July 2008.

Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chang (US 6,080,904) in view of Yori (J. C. Yori et al., Isomerization of n-Butane on Pt/SO<sub>4</sub>2--ZrO<sub>2</sub> and Mechanical Mixtures of Pt/Al<sub>2</sub>O<sub>3</sub> + SO<sub>4</sub>2--ZrO<sub>2</sub>, 153 J. CATAL. 218-223 (1995)).

Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zhang (S. Zhang et al., Anion-Modified Zirconia: Effect of Metal Promotion and Hydrogen Reduction on Hydroisomerization of n-Hexadecane and Fischer-Tropsch Waxes, 69 FUEL PROC. TECH. 59-71 (2001)) in view of Yori (J. C. Yori et al., Isomerization of n-Butane on Pt/SO<sub>4</sub>2--ZrO<sub>2</sub> and Mechanical Mixtures of Pt/Al<sub>2</sub>O<sub>3</sub> + SO<sub>4</sub>2--ZrO<sub>2</sub>, 153 J. CATAL. 218-223 (1995)).

Applicant argues that Yori does not teach or suggest addition of aluminum to a composition of zirconium oxide modified with tungsten oxyanion, but rather the addition of alumina to SO<sub>4</sub>(2-)-ZrO<sub>2</sub> which is a compound completely different from zirconium oxide modified with tungsten oxyanion.

In response to Applicant's argument, Examiner notes that the rejection of Applicant's claims were made on the basis of the COMBINED teachings of Chang and Yori and Zhang and Yori. In this regard, Examiner notes that both Chang and Zhang teach an isomerization catalyst of zirconium oxide modified with tungsten oxyanion while Yori teaches the addition of alumina to a zirconium oxide - based isomerization catalyst. Thus, Applicant's argument is not persuasive to overcome the rejections because one cannot show nonobviousness by attacking references INDIVIDUALLY where the rejections are based on COMBINATIONS of references. See In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); In re Merck & Co., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

RPB

/Glenn A Calderola/  
Acting SPE of Art Unit 1797